

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 6TH NOVEMBER 2007 / 15TH KARTHIKA 1929

Bail Appl..No. 6740 of 2007()

CRMP.1883/2007 of DISTRICT COURT, KASARAGOD
CRIME NO.42/07 OF KUMBLA RANGE, KUMBLA EXCISE CIRCLE.
.....

PETITIONER/ACCUSED

ANNU, S/O. KAMALA,
SUNNADA, CHIPPAR VILLAGE, CHIPPAR P.O.,
KASARGODE.

BY ADV. SRI.VARGHESE C.KURIAKOSE
SRI.PRAVEEN K. JOY

RESPONDENTS: COMPLAINANT/STATE

-
1. STATE OF KERALA, REP. BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.
 2. THE EXCISE RANGE OFFICER,
KUMBLA RANGE, KASARGODE.

BY PUBLIC PROSECUTOR SRI.S.U. NAZAR.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 06/11/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R. BASANT, J.

B.A. No. 6740 OF 2007

Dated this the 6th day of November, 2007

ORDER

Application for anticipatory bail. The petitioner faces allegations under the Kerala Abkari Act. He was allegedly found to carry 5.4 litres of Indian Made Foreign Liquor which is to be sold exclusively within the State of Karnataka when the Excise party spotted him on 11/9/07. He allegedly abandoned the articles and took to his heels. The contraband articles were seized. The petitioner's identity was ascertained and was incorporated in the seizure mahazar as well as the occurrence report. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. He has nothing to do with the crime in question. He is not the person named in the

occurrence report and the seizure mahazar. He is now being threatened of arrest. In these circumstances, anticipatory bail may be granted to the petitioner, it is prayed.

3. This application is opposed by the learned Public Prosecutor. The learned Public Prosecutor submits that there is no merit in the contention that the petitioner is not the one who is named as accused in the contemporaneous seizure mahzar and the occurrence report. All details available in the seizure mahazar are answered squarely by the petitioner. The petitioner has to be arrested and interrogated. He may not be granted anticipatory bail at this stage, submits the learned Public Prosecutor.

4. Having considered all the relevant inputs, I find no features in this case which would justify the invocation of the extraordinary equitable discretion under Sec.438 of the Cr.P.C. I am unable to accept the contention that the petitioner does not answer the description of the accused given in the seizure mahazar and the occurrence report. At any rate, I am satisfied that this is a fit case where the petitioner must appear before the Investigating Officer or the learned Magistrate having jurisdiction and then seek regular bail in the ordinary course.

5. In the result, this bail application is dismissed; but with

B.A. No. 6740 OF 2007 -: 3 :-

the observation that if the petitioner surrenders before the Investigating Officer or the learned Magistrate and seeks bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously.

Sd/-

(R. BASANT, JUDGE)

Nan/

//true copy//

P.S. to Judge